

**REMARKS**

While Applicant continues to maintain and assert the arguments presented in the Appeal Brief filed October 04, 2007 and Reply Brief filed on February 04, 2008, Applicant respectfully requests reopening of prosecution, entry of the foregoing amendments, and reconsideration of the instant application in view of the amendments, and the following remarks:

The following claims are pending: Claims 1-5, 7-21 and 26.

The following claims are independent: Claim 1, 16 and 21.

Please amend claims 1, 3-5, 7, 10-12, 14, 16-18, 21 and 26; although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and to better track practical/commercial implementations, Applicant submits that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicant submits that the amendments to the previously filed claims are supported throughout the originally filed specification, figures and claims, and that no new matter has been added by way of these amendments.

**Claim Rejections - 35 U.S.C. § 103**

The Examiner has rejected Claims 1-5, 7-21 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Basch, US Patent No. 6,119,103 (hereinafter "Basch") in view of Packwood, U.S. Patent No. 7,006,992 (hereinafter

"Packwood"). Although Applicant respectfully traverses these rejections and submits that a *prima facie* showing of obviousness has not been made and that the applied reference, taken alone or in combination, fails to discuss or render obvious every element of each pending claim, Applicant has amended the independent claims 1, 3-5, 7, 10-12, 14, 16-18, 21 and 26 to provide clarification and better track commercial implementations.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate;
- (B) the difference or differences in the claim over the applied reference(s);
- (C) the proposed modification of the applied reference(s) to arrive at the claimed subject matter; and
- (D) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicant submits that, by over-generalizing the applied references, the pending rejections do not establish at least either of the first two elements of a *prima facie* case of obviousness. Amended independent claim 1 recites, *inter alia*:

A computer-implemented method for managing risk related to a financial transaction, the method comprising:  
gathering risk information into a computer storage, the risk information related to financial and non-financial risk variables for the financial transaction, which is periodically updated;

...  
generating with the processor, a risk quotient comprising at least one of a scaled numeric value and a scaled alphanumeric value based on the structured transaction information and the periodically updated gathered risk information.

Applicant submits that the cited references, taken alone or in combination, do not discuss or render obvious at least these claim elements recited in amended independent claim 1.

In the Examiner's Answer dated December 03, 2007 (and previous Office Actions), the Examiner alleges that Basch teaches:

“... a computer implemented method, a computerized system, a computer executable program code residing on a computer readable medium for managing risk related to a financial transaction, the method comprising: gathering data into a computer storage, the data related to risk variables for a financial transaction (See Basch Abstract, Figure 1 and claims], 2) “

(Examiner's Answer, § 9, pg. 3)

Applicant respectfully submits that the portions of Basch referenced by the Examiner do not discuss or render obvious the claim elements as recited in independent claim 1.

Instead of discussing the claimed “[a] computer-implemented method ... comprising: gathering risk information into a computer storage, the risk information related to financial and non-financial risk variables for the financial transaction, which is periodically updated,” the cited portions of Basch discuss a financial risk prediction system that includes:

“...receiving first transaction data pertaining to transactions performed on a first financial account. The first financial account represents a financial account issued to a given account holder by a first account issuer. The method further includes receiving second transaction data pertaining to transaction performed on a second financial account different from the first financial account. The second financial account represents a financial account issued to the given account holder by a second account issuer different from the first account issuer ...”

(Basch, Abstract)

However, Applicant submits that Basch's system discusses "financial transaction data" relating to two separate financial accounts and hence two separate financial transactions. Therefore, Basch fails to discuss or render obvious the claimed "gathering risk information ... related to financial and non-financial risk variables for the financial transaction, which is periodically updated," as recited in independent claim 1.

Moreover, Applicant submits that Packwood's method of "analyzing and presenting a series of risk factors associated with the operation of a business, such as a bank" (Packwood, Abstract) does not remedy at least these deficiencies identified in Basch, with regard to independent claim 1.

Applicant notes that MPEP prescribes that, "when evaluating the scope of a claim, *every limitation in the claim must be considered*," [§ 2106 II(C), emphasis added] and, "*All words* in a claim must be considered in judging the patentability of that claim against the prior art." [§ 2143.03, emphasis added]. Applicant submits that the pending rejection has failed to consider "every limitation in the claim" and "[a]ll words in [the] claim" in judging the patentability of the claim against the prior art by mischaracterizing claim elements and/or over-generalizing the applied reference(s). Accordingly, Applicant submits that a *prima facie* showing of obviousness has not been put forth and respectfully requests reconsideration and withdrawal of this basis of rejection. Should the Examiner maintain the rejection, Applicant respectfully requests additional clarification as to how and specifically why the Examiner believes Basch allegedly discusses "gathering risk information into a computer storage, the risk

information related to financial and non-financial risk variables for the financial transaction, which is periodically updated" as recited in independent claim 1.

For at least these reasons, Applicant respectfully submits that independent claim1 is not discussed or rendered obvious by Basch in view of Packwood, taken alone or in combination. Although of different scope than independent claim 1, Applicant submits that amended independent claims 16 and 21 are also not rendered obvious by Basch in view of Packwood for at least the reasons discussed above. As claims 2-5, 7-15 and 26 depend directly or indirectly from the independent claim 1, and claims 17-20 depend directly or indirectly from the independent claim 16, Applicant further submits that they are also not disclosed or rendered obvious by Basch in view of Packwood, for at least similar reasons as those discussed. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this basis of rejection and allowance of the claims.

## **CONCLUSION**

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicant respectfully submits that the supporting remarks and claimed inventions, Claims 1-5, 7-21 and 26, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicant believes that the above remarks, which distinguish the

claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicant asserts that all such remaining and not discussed claim elements and/or bases for rejection, all, also are distinguished over the prior art and reserves the opportunity to more particularly traverse, remark and distinguish over any such remaining claim elements and/or bases for rejection at a later time, should it become necessary. Further, any remarks that were made in response to an Office Action objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Office Action objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicant does not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

**AUTHORIZATION**

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17209-454. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17209-454.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,  
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Dated: September 30, 2009

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